

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Charles Frederick, Jr., )  
Plaintiff, ) C/A No. 5:17-1631-MBS  
vs. )  
Nancy A. Berryhill, Acting Commissioner )  
of Social Security Administration, )  
Defendant. )  
\_\_\_\_\_  
)

**ORDER**

Plaintiff Charles Frederick, Jr. filed the within action on June 12, 2017, seeking judicial review of a final decision of Defendant Acting Commissioner of Social Security Administration denying Plaintiff's claims for social security disability benefits. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling.

On July 16, 2018, the Magistrate Judge issued a Report and Recommendation in which she discussed in detail Plaintiff's allegations of error. The Magistrate Judge found a number of Plaintiff's allegations to be without merit. The Magistrate Judge also found, however, that (1) she could not determine whether the reasons given by the Administrative Law Judge (ALJ) for discounting the February 2015 opinion of Dr. Novinger, Plaintiff's treating physician, was supported by substantial evidence; (2) she could not determine whether the ALJ's analysis of Plaintiff's subjective symptoms is supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the Commissioner's decision be reversed and remanded under sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. On July 27, 2018, the Commissioner filed

a notice of not filing objections to the Report and Recommendation. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner reversed and remanded under sentence four of 42 U.S.C. § 405(g) for further administrative proceedings.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

August 1, 2018